

Appl. No. 10/735,220
Amdt. Dated December 5, 2005
Reply to Office Action of July 6, 2005

REMARKS/ARGUMENTS

Claim 5 has been amended and recast in the form of the holder of the present invention rather than the previously allowed blank format as such is the primary form of the invention and to better set out the format in which the structural features of the invention which distinguish the subject invention over the prior art are more significant. Newly submitted Claims 11 and 12 are previously canceled Claims 2 and 4 but now dependent on amended Claim 5.

The outstanding Office Action relies on the Crary patent to show recesses and bunched material lines with the comment that how a structure may be used is given no patentable right. Such comment when applied to a blank could be considered but not believed valid if one assumes the blank could be used face up or face down (not true in the present case). However, such comment and reasoning if applied to a holder which clearly includes an elongated base with upper and lower surfaces and wherein the upper surface (the one which is disposed uppermost in use) is the surface that receives the bag handles is clearly not relevant. This upper surface is the surface on which the bunched material lines occur and which resist the upward movement of the sidewalls past a vertical position.

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Contrasted to the above structural configuration is the device shown in Crary in which it is the upper base portion on which the weakened recesses are formed and any bunched area is disposed on the opposite lower base portion surface—just the opposite configuration to the structure of the present invention. In this regard, Crary shows a pair of grooves or weakened recesses 12, 13 in the top surface 23. This is clear from Fig. 1 of Crary as well as from Fig. 2 thereof (from the structure of the co-acting rolls 16, 18) wherein the lower wheels have spaced flanges 19, 20 into which material can be forced. Thus, to incorporate the teachings of Crary would lead away from an important feature of applicant's invention clearly recited in the claims—that of providing bunched material lines in the upper surface of the base such that sidewall contact is resisted when the sidewalls are upwardly rotated to their use positions.

Reconsideration of the applicability of the rejection based on Crary is urged in the light of the above and in view of the clarifying amendments to the claims.

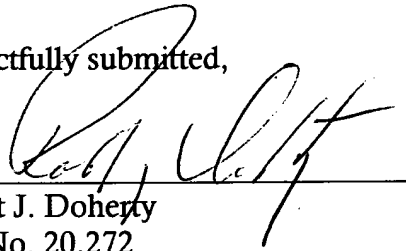
It is therefore believed that all claims as presently written are in a form ready for allowance; however, should claim language modification occur to the

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Examiner, such would be welcomed to advance this application. Allowance of the claims at bar in this application is urged.

A two-month time extension is attached herewith.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Robt. J. Doherty', is written over a horizontal line.

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